HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

ORIGINAL

PATENT APPLICATION
ATTORNEY DOCKET NO. 200301949-1

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Peter S. TEVLIN

Confirmation No.: 9339

Application No.: 09/776,309

Examiner: Alexander Jamal

Filing Date: 02/02/2001

Group Art Unit: 2643

Title: AUDIO TELEPHONE DIALER FOR TELEPHONE NUMBER SELECTED ON DISPLAY IN ANY SOFTWARE APPLICATION

**Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450**

RECEIVED
CENTRAL FAX CENTER
JUN 24 2005

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 04/29/2005.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( )	one month	$120.00
( )	two months	$450.00
( )	three months	$1020.00
( )	four months	$1590.00

RECEIVED
OIPE/IAP
JUN 27 2005

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of **$500.00**. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

( ) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450. Date of Deposit:_____

OR

(X) I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (703) 872-9306 on 06/24/2005

Number of pages: 19

Typed Name: Christina L. Paz

Signature: Christina L. Paz

Respectfully submitted,

Peter S. TEVLIN

By Jonathan M. Harris

Jonathan M. Harris
Attorney/Agent for Applicant(s)
Reg. No. 44,144

Date: 06/24/2005

Telephone No.: (713) 238-8000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	Peter S. TEVLIN	§	Confirmation No.:	9339
Serial No.:	09/776,309	§	Group Art Unit:	2643
Filed:	02/02/2001	§	Examiner:	Alexander Jamal
For:	Audio Telephone Dialer For Telephone Number Selected On Display In Any Software Application	§	Docket No.:	200301949-1

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: June 24, 2005

Sir:

Appellant hereby submits this Appeal Brief in connection with the above-identified application. A Notice of Appeal was filed via facsimile on April 29, 2005.

06/27/2005 CCHAU1 00000008 082025 09776309
01 FC:1402 500.00 DA

Appl. No. 09/776,309
Appeal Brief dated June 24, 2005
Reply to Advisory Action of April 11, 2005

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST

The real party in interest is the Hewlett-Packard Development Company (HPDC), a Texas Limited Partnership, having its principal place of business in Houston, Texas, through its merger with Compaq Computer Corporation (CCC) which owned Compaq Information Technologies Group, L.P. (CITG). The Assignment from the inventors to CCC was recorded on February 22, 2001, at Reel/Frame 011522/0748. The Assignment from CCC to CITG was recorded on January 15, 2002, at Reel/Frame 012478/0857. The Change of Name document was recorded on December 2, 2003, at Reel/Frame 014177/0428.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

III. STATUS OF THE CLAIMS

Originally filed claims:	1-16.
Claim cancellations:	None.
Added claims:	None.
Presently pending claims:	1-16.
Presently appealed claims:	1-16.

IV. STATUS OF THE AMENDMENTS

Appellant proposed amendments to claims 1, 9 and 16 after the final Office Action dated January 14, 2005. However, per the Advisory Action dated April 11, 2005, the proposed amendments were not entered. Appellant appeals the rejection of the claims as listed in the appendix of this Brief (i.e., without the proposed amendments).

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Appellant's contribution comprises a system for dialing a telephone number. The system comprises a computer system, a display device coupled to the computer system, an audio speaker included in the computer system and a telephone device that includes an audio receiver. The computer system also includes an input device that enables a user to select a sequence of numbers displayed on the display device. The audio speaker generates Dual Tone Multi-Frequency (DTMF) audio tones which are received by the telephone device. A computer user places the audio receiver of the telephone in close proximity to the audio speaker of the computer system. The user activates a dialing function of the computer system to generate DTMF tones for the selected sequence of numbers. See Figure 1 and Appellant's disclosure pages 3, 5-6, and 8-9. Accordingly, the user can use the computer to dial a phone number on the telephone.

In another embodiment, a method comprises selecting, using an input device, a sequence of numbers displayed on a display device, placing an audio receiver coupled to a telephone device in close proximity to an audio speaker coupled to the computer system, activating a dialing function, generating electronic signals for the sequence of numbers selected, transmitting electronic signals to the audio speaker to produce DTMF audio tones, and conducting a telephone conversation using the audio receiver after production of the DTMF audio tones. See Figure 1 and Appellant's disclosure pages 3, 5-6, and 8-9.

In yet another embodiment, a method comprises selecting a sequence of numbers displayed in a software application executing on a computer system, placing an audio receiver coupled to a telephone device in close proximity to an audio speaker coupled to the computer system, activating a dialing function with the sequence of numbers selected, generating DTMF signals for the sequence of numbers selected, transmitting DTMF signals to the audio speaker to produce DTMF audio tones, and communicating with a remote object over a telephone line using the audio receiver after production of the DTMF audio tones. See Figure 1 and Appellant's disclosure pages 3, 5-6, and 8-9.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-16 are obvious over Isensee (U.S. Pat. No. 5,815,153) in view of Arzoumanian (U.S. Pat. No. 5,963,637) under 35 U.S.C. § 103.

VII. ARGUMENT

A. Summary of the Isensee reference

The Isensee reference teaches a desktop computer (item 1, Fig. 1) that has a graphical user interface (GUI) that presents a user interactable object (e.g., telephone object 200, Fig. 4) to a user. The desktop computer is presumably coupled to a network such as the public switched telephone network using communications adapter 34. The computer user interacts with the telephone object ("icon") 200 to place a telephone call. For example, the user can use the mouse 26 to select the telephone handset 202 found in the telephone icon 200 and then select one of the speed dial buttons 206, or activate the telephone keys 218 found in the telephone object 200. Col. 8, lines 25-40. Once a call has been made, the computer user uses the computer's microphone and speaker to conduct a telephone conversation. Col. 4, lines 20-25. Isensee's interactable telephone icon 200 in effect takes the place of a "real" telephone. The stated purpose of Isensee is to use the computer to conduct the phone conversation, and not to use a telephone in conjunction with the computer. "The present invention allows a user to answer and place calls without picking up a physical handset." Col. 4, lines 3-4.

B. Summary of the Arzoumanian reference

The Arzoumanian reference teaches a telephone calling card dialer that in the preferred embodiment is a watch that includes a number and tone generating device (see Fig. 1 for block diagram, and Fig. 4 for a drawing showing the watch 10 being presented to a telephone handset 54). The watch can produce DTMF tones that can be used for dialing a telephone number when presented to a telephone handset. The numbers programmed into the watch are the user's calling card information including the calling card number, an access number and personal identification number. Once these numbers are dialed by the watch, the user still has to manually dial the phone number of the party being called. The Arzoumanian reference does not disclose a user being able to select a phone number to dial.

C. Claims 1-7

Appellant selects claim 1 as representative of this claim group. Claim 1 requires, among other limitations, "a computer system" and "an audio speaker, included in said computer system," that generates DTMF audio tones. The computer user "places the audio receiver [of a telephone device] in close proximity to the audio speaker and activates a dialing function to generate DTMF tones." The Examiner relied on Isensee for disclosing a computer system. The Examiner correctly observed that Isensee fails to disclose the ability for the computer system to generate the DTMF tones itself for playback to a telephone receiver placed in close proximity to the computer's speaker. Instead, the Examiner turned to Arzoumanian to allegedly satisfy the deficiency of Isensee.

The Examiner's analysis is fatally flawed for at least the following reasons. As noted above, Isensee's stated purpose is to use the computer to conduct the phone conversation and specifically not to use a telephone in conjunction with the computer. "The present invention allows a user to answer and place calls without picking up a physical handset." Col. 4, lines 3-4. To modify Isensee with Arzoumanian's teaching of the placement of a telephone receiver near a tone generator device violates the stated purpose and teachings of Isensee. *See In re Haruna*, 249 F.3d 1327, 1335-36 (Fed. Cir. 2001) (reversing the PTO at least in part because the modification of the prior art Benne patent suggested by the PTO defeated the purpose of Benne).

In the Advisory Action, the Examiner tried to refute Appellant's argument in stating that "the handset referred to by Isensee [that the user need not pick up] is the handset that is replaced by the computer GUI, not the handset (payphone handset) taught by Arzoumanian." Advisory Action page 2. The Examiner established no foundation for this conclusion. Moreover, Isensee clearly contemplates the computer user being allowed to answer and place phone calls without resorting to a physical handset. This express limitation of Isensee's teachings is very clear and would be violated if the teachings of Arzoumanian were permitted as proposed by the Examiner. Thus, the combination of Isensee and Arzoumanian as proposed by the Examiner is in error.

Based on the forgoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the claims set for issue.

D. Claims 8, 15

Appellant selects claim 8 as representative of this claim group. Claim 8 requires that "the dialing function to generate DTMF tones can recognize the selected telephone number as having an area code requiring long distance dialing and automatically insert the additional tones and pauses for dialing the long distance telephone number." None of the art teaches or suggests this combination of limitations. Arzoumanian does not permit the selection of a phone number and neither reference teaches or even suggests recognizing when the selected has an area code that requires long distance dialing and automatically inserting additional tones and pauses for dialing the long distance number. Based on the forgoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the claims set for issue.

E. Claims 9-14

Appellant selects claim 9 as representative of this claim group. Claim 9 requires selecting a sequence of numbers displayed on a display device, placing an audio receiver of a telephone device in close proximity to a computer's speaker, and transmitting signals to the audio speaker to produce DTMF audio tones that are used by the telephone's audio receiver to conduct a telephone conversation. The Examiner combined the teachings of Isensee and Arzoumanian to reject claim 9. As explained above, modifying Isensee to incorporate the teachings of Arzoumanian ignores and runs counter to the stated purpose of Isensee. At least for this reason, the rejection of claim 9 is in error. Based on the forgoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the claims set for issue.

F. Claim 16

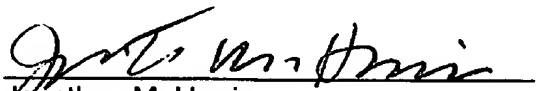
Claim 16 requires selecting a sequence of numbers displayed in a software application, placing an audio receiver of a telephone device in close proximity to a computer's speaker, and transmitting DTMF signals to the audio speaker to produce DTMF audio tones that are used by the telephone's audio

receiver to conduct a telephone conversation. The Examiner combined the teachings of Isensee and Arzoumanian to reject claim 16. As explained above, modifying Isensee to incorporate the teachings of Arzoumanian violates the stated purpose of Isensee. At least for this reason, the rejection of claim 16 is in error. Based on the forgoing, Appellant respectfully submits that the rejection of claim 16 be reversed, and the claim set for issue.

VIII. CONCLUSION

For the reasons stated above, Appellant respectfully submits that the Examiner erred in rejecting all pending claims. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,



Jonathan M. Harris
PTO Reg. No. 44,144
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
ATTORNEY FOR APPELLANT

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400

IX. CLAIMS APPENDIX

1. (Original) A system for dialing a telephone number, comprising:

a computer system;

a display device coupled to said computer system, wherein said computer system includes an input device that enables a user to select a sequence of numbers displayed on the display device;

an audio speaker, included in said computer system, said audio speaker generating Dual Tone Multi-Frequency ("DTMF") audio tones;

a telephone device that includes an audio receiver that is capable of receiving said DTMF audio tones; and

wherein said computer user places the audio receiver in close proximity to the audio speaker and activates a dialing function to generate DTMF tones for the selected sequence of numbers.

2. (Original) The system of claim 1 wherein said computer user, upon completion of DTMF tone generation, conducts a telephone conversation using the audio receiver.

3. (Original) The system of claim 1 wherein said computer system chassis further comprises hardware to generate DTMF tones, said hardware including a sound board.

4. (Original) The system of claim 3 wherein said sound board couples to the audio speaker and includes an encoder/decoder and amplifier.

5. (Original) The system of claim 1 wherein said input device comprises a mouse pointing device.

6. (Original) The system of claim 1 wherein said input device comprises selection keys on a computer keyboard.

7. (Original) The system of claim 1 wherein said user selected sequence of numbers is a telephone number.

8. (Original) The system of claim 7 wherein the dialing function to generate DTMF tones can recognize the selected telephone number as having an area code requiring long distance dialing and automatically insert the additional tones and pauses for dialing the long distance telephone number.

9. (Previously presented) A method of dialing a telephone number, comprising:

selecting, using an input device, a sequence of numbers displayed on a display device;

placing an audio receiver coupled to a telephone device in close proximity to an audio speaker coupled to the computer system;

activating a dialing function;

generating electronic signals for the sequence of numbers selected;

transmitting electronic signals to the audio speaker to produce Dual Tone Multi-Frequency ("DTMF") audio tones; and

conducting a telephone conversation using the audio receiver after production of the DTMF audio tones.

10. (Original) A method as in claim 9 wherein said computer system contains a sound board that generates the electronic signals, said electronic signals conforming to a DTMF format.

11. (Original) A method as in claim 10 wherein said sound board couples to the audio speaker and includes an encoder/decoder and amplifier.

12. (Original) A method as in claim 9 wherein said input device comprises a mouse pointing device.

13. (Original) A method as in claim 9 wherein said input device comprises selection keys on a computer keyboard.

14. (Original) A method as in claim 9 wherein the sequence of numbers selected is a telephone number.

15. (Original) A method as in claim 14 wherein the dialing function can recognize the selected telephone number as having an area code requiring long distance dialing and automatically insert the additional tones and pauses for dialing the long distance telephone number.

16. (Previously presented) A method of dialing a telephone number, comprising:

selecting a sequence of numbers displayed in a software application executing on a computer system;

placing an audio receiver coupled to a telephone device in close proximity to an audio speaker coupled to the computer system;

activating a dialing function with the sequence of numbers selected;

generating Dual Tone Multi-Frequency ("DTMF") signals for the sequence of numbers selected;

transmitting DTMF signals to the audio speaker to produce DTMF audio tones; and

communicating with a remote object over a telephone line using the audio receiver after production of the DTMF audio tones.

X. EVIDENCE APPENDIX

None.

XI. RELATED PROCEEDINGS APPENDIX

None.